

02.28.05

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PC25603A US
Response to Restriction Requirement for
Application No. 10/718,337

EV496344235US



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:
Allen BORCHARDT, et al.

Serial No.: **10/718,337**

Confirmation No.: **9247**

Filed: **November 19, 2003**

For: **INHIBITORS OF HEPATITIS C VIRUS
RNA-DEPENDENT RNA POLYMERASE, AND
COMPOSITIONS AND TREATMENTS USING
THE SAME**

Certificate of Mailing (37 C.F.R. §1.10):

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail (EV 496344235 US) in an envelope addressed to: Mail Stop: Amendment, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450, on this 25th day of February 2005.

s/ Pamela Hollander
Pamela Hollander

Group Art Unit: **1625**

Examiner: **Amelia A. OWENS**

Mail Stop: Amendment
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

Sir:

In a Restriction Requirement dated February 4, 2005, the Examiner required restriction under 35 U.S.C. § 121 between:

- 1) Group I, comprising claims 5-11 and 32;
- 2) Group II, comprising claims 12-26;
- 3) Group III, comprising claims 27-29; and
- 4) Group IV, comprising claims 30-31.

The Examiner has also required an election of species if either Group I, II, or III is elected.

Initially, Applicants wish to thank the Examiner for the very helpful telephonic discussion of the Restriction Requirement conducted with Applicants' representative on February 23, 2005.

During that conversation, Applicants' representative requested the Examiner reconsider the present Restriction Requirement. Applicants proposed, and the Examiner agreed, that if presently pending claims 5-32 are subject to restriction under 35 U.S.C. § 121, then they be grouped as follows: 1) Group I, comprising claims 5 to 29 and 32, drawn to compounds and pharmaceutical compositions comprising those compounds; and 2) Group II, comprising claims 30 and 31, drawn to methods of treating Hepatitis C virus in a mammal or methods of inhibiting Hepatitis C virus polymerase.

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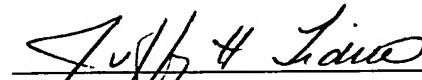
Based on this new grouping, to which the Examiner has agreed, Applicants herein elect for prosecution on the merits, without traverse, new Group I, comprising claims 5 to 29 and 32, drawn to compounds and pharmaceutical compositions comprising those compounds. Additionally, Applicants elect species Compound A(153), (-)-2-(4-{2-[2-Cyclopentyl-5-(5,7-dimethyl-[1,2,4]triazolo[1,5-a]pyrimidin-2-ylmethyl)-4-hydroxy-6-oxo-3,6-dihydro-2H-pyran-2-yl]-ethyl}-2-fluorophenyl)-2-methylpropionitrile.

Applicants herein expressly reserve the right to prosecute the subject matter of non-elected claims 30 and 31 in future applications.

Last, Applicants hereby petition for any required extension of time. Please charge all required fees to Deposit Account No. 500329.

Respectfully submitted,

Date: February 25, 2005



Jeffrey H. Midwell
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USING THE SAME**

Group Art Unit: **1625**

Examiner: **Not Yet Assigned**

Mail Stop: Amendment
To the Honorable Commissioner For Patents
P.O. Box 1450, Alexandria, VA 22313

TRANSMITTAL LETTER

Transmitted herewith are the following documents:

- | | |
|-----------------------------------------------|-------------------------|
| 1. Return Receipt Postcard | 1 postcard; |
| 2. Response to Restriction Requirement | 2 pages; and |
| 3. Fees Due | Deposit Account. |

Respectfully submitted,

Date: February 25, 2005

Jeffrey H. Tidwell
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